

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GINA TWINE and U.S. POSTAL SERVICE,
POST OFFICE, Piscataway, NJ

*Docket No. 00-1064; Submitted on the Record;
Issued February 8, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant met her burden of proof to establish that she sustained an employment-related injury.

On August 16, 1999 appellant, then a 41-year-old letter carrier, filed a notice of occupational disease with the Office of Workers' Compensation Programs alleging that she developed degenerative joint disease and torn cartilage as a result of walking her mail route. On August 19, 1999 she filed a notice of traumatic injury alleging that on August 2, 1999, as she was walking up stairs, she pulled a muscle or tore cartilage in her right leg causing severe pain. In an undated statement, appellant advised that on August 6, 1999, while walking her route, she began experiencing severe pain in her right leg.

In support of her claims, appellant submitted a disability slip dated August 6, 1999 in which Dr. Sheila Choubey advised that appellant should be on bed rest from August 6 to 9, 1999 due to abdominal pain. In a disability slip dated August 9, 1999, Dr. Choubey stated that appellant was suffering from dysfunctional uterine bleeding due to anemia.

Appellant also submitted disability slips dated August 10 and 16, 1999 in which Dr. David Sobel, a Board-certified internist, diagnosed degenerative joint disease of the right knee and advised that she should work inside and limit standing to one hour at a time. In a Form CA-20 dated August 17, 1999, Dr. Sobel noted findings of crepitus in the right knee and pain on full extension. He stated that appellant's condition was not necessarily caused by but may have been aggravated by her employment and added that she could work with restrictions.

By letter dated August 27, 1999, the employing establishment controverted appellant's claim. In a September 14, 1999 letter, the Office advised appellant of the type of evidence needed to support her claim.

On September 16, 1999 appellant filed a Form CA-2a alleging a recurrence of disability on September 14, 1999 related to the August 2, 1999 traumatic injury. She stopped work on September 15, 1999. Dr. Sobel indicated on the claim form that appellant suffered from a recurrent right lumbosacral sprain and numbness and weakness in the right leg. In an attached statement, appellant indicated that on September 14, 1999 she experienced “excruciating” right leg and back pain and had to stop work.

In a September 16, 1999 disability slip, Dr. Sobel stated that appellant should not work until further notice due to right leg numbness and weakness and opined that it could possibly be a work-related injury.

By letter dated September 17, 1999, the Office requested additional information from Dr. Sobel, including his opinion supported by a medical explanation as to how the reported work incident of August 2, 1999 caused or aggravated the claimed injury. In response, Dr. Sobel submitted a medical report dated September 28, 1999 in which he noted that he first saw appellant on February 23, 1999, when she indicated that following a period of lifting 25 tubs of mail she suffered lumbosacral spasm. He next saw appellant on August 6, 1999 for complaints of discomfort in her right knee and right popliteal fossa. Physical examination revealed crepitus in the right knee with discomfort radiating to her right popliteal fossa. Dr. Sobel next saw appellant on August 16, 1999 and she noted a history of pain in her right knee, down her right leg, for a period of about four months, which was made worse with ambulation.

Magnetic resonance imaging (MRI) scan of the right knee disclosed chondromalacia patella but was otherwise normal. A March 1, 1999 MRI scan of the lumbosacral spine revealed decreased disc spaces at L4-5 and L5-S1, following an earlier motor vehicle accident.

Dr. Sobel again saw appellant on September 16, 1999 for ongoing complaints of mid-back, right leg and right hip pain with right-sided radicular pain. He last saw appellant on September 28, 1999 and diagnosed “lumbosacral disc disease, work-related injury superimposed on earlier trauma from motor vehicle accident.” Dr. Sobel concluded that “[t]he condition is the result, I feel, of specific activity at work which was the lifting of 25 tubs of mail on or about February 23, 1999, and manifested themselves over a period of time as [she] remained active and ambulatory as this type of injury can occasionally present itself.” He advised that appellant should not lift anything heavier than 20 pounds and should not remain on her feet for more than 1 or 2 hours at a time.

In an October 11, 1999 report, Dr. Stephen S. Cook, a Board-certified orthopedic surgeon, noted that in August 1999 appellant had an exacerbation of back symptoms and began to develop significant back and leg pain on the right. Noting her MRI findings, he opined that her symptoms could be related to disc compression.

In a decision dated November 23, 1999, the Office denied appellant’s claim on the grounds that she did not establish that she sustained an employment-related injury. The Office noted Dr. Sobel’s opinion that appellant’s condition was related to a February 23, 1999 employment incident.

The Board finds that appellant did not meet her burden of proof to establish that she sustained an employment-related injury.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim,² including the fact that the individual is an "employee of the United States" within the meaning of the Act,³ that the claim was timely filed within the applicable time limitation of the Act,⁴ that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁵ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

Causal relationship is a medical issue⁷ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁸ Moreover, the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁹

In this case, appellant has not submitted medical evidence establishing that her injury was caused by her employment. Although Dr. Sobel advised that appellant's condition resulted from work activity, he related her condition to a February 1999 incident. Appellant's claims do not mention this activity. Rather, they pertain to an August 2, 1999 incident and walking her route. Dr. Cook did not provide an opinion regarding the cause of appellant's condition. Appellant

¹ 5 U.S.C. §§ 8101-8193.

² See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.115.

³ See *James A. Lynch*, 32 ECAB 2116 (1980); see also 5 U.S.C. § 8101(1).

⁴ 5 U.S.C. § 8122.

⁵ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *Delores C. Ellyett*, 41 ECAB 922 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁸ *Victor J. Woodhams*, *supra* note 6; *Charles E. Burke*, 47 ECAB 185 (1995); *Thomas L. Hogan*, 47 ECAB 323 (1996); *Kurt R. Ellis*, 47 ECAB 505 (1996); *Alberta S. Williamson*, 47 ECAB 569 (1996); *Joe L. Wilkerson*, 47 ECAB 604 (1996).

⁹ *Minnie L. Bryson*, 44 ECAB 713 (1995); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

submitted reports from Dr. Choubey who indicated that her condition from August 6 to 13, 1999 was caused by abdominal pain and dysfunctional uterine bleeding.

A medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain from a medical perspective how the current condition is related to the claimed injury.¹⁰ A medical opinion that is not factually consistent as to the circumstances of the alleged injury is of diminished probative value.¹¹ Appellant has, therefore, not met her burden of proof to show that she has sustained an employment-related injury.¹²

The decision of the Office of Workers' Compensation Programs dated November 23, 1999 is hereby affirmed.

Dated, Washington, DC
February 8, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member

¹⁰ *Kathleen M. Fava (John F. Malley)*, 49 ECAB 519 (1998).

¹¹ *Elaine Pendleton*, *supra* note 5.

¹² The Board notes that appellant filed her appeal with the Board on December 9, 1999, and on December 17, 1999 requested reconsideration with the Office and submitted new evidence. It is well established that the Board and the Office may not exercise concurrent jurisdiction over the same issue in the same case. *Douglas E. Billings*, 41 ECAB 880 (1990).